

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: RICHARD B. MARGULIES	DOCKET NO. WRU-99-27
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ORDER

(Issued September 9, 1999)

On July 12, 1999, Richard B. Margulies filed with the Utilities Board (Board) a request for waiver of IOWA ADMIN. CODE 199-20.3(1)"b" (1999). Subparagraph "b" requires each unit of a multioccupancy premise be individually metered except in certain circumstances. The Consumer Advocate Division of the Department of Justice responded on July 30, 1999, in support of the petition.

Mr. Margulies is part owner and manager of building located at 1370 NW 114th Street in Clive, Iowa. The 1999 building was built on speculation with one electric meter. The building was marketed for one tenant. Currently, the owners have not been able to secure a single tenant to occupy the entire building. Therefore, several tenants have leased space. Mr. Margulies contended that all leases in the building are "full service flat rate leases," with no "pass through expenses." The tenants are not charged for any utilities.

The building was built with energy saving features. Mr. Margulies maintained that when the landlord pays for the utilities, energy saving practices are

more strictly observed. If the landlord pays for the utility bill, the landlord will have the greatest motivation to save energy.

Mr. Margulies stated that compliance with the Board's rules would cost more than \$50,000. The building would have to be rewired before installing additional meters. Additional expenses would be incurred periodically with the expansion or downsizing of existing tenants and the re-configuration of space for new tenants. In addition, the heating and air conditioning systems for the building cannot be separated or separately metered. Some of the rental spaces in the building are served by one heating and cooling unit and others share the same heating and cooling unit.

IOWA ADMIN. CODE 199-20.3(1)"b" sets forth the criteria for when a utility may master meter a multioccupancy premise. Paragraph "b" provides as follows:

All electricity delivered to multioccupancy premises where units are separately rented or owned shall be sold by a utility on the basis of individual meter measurement for each unit except for that electricity used in centralized heating, cooling, or water heating systems, where individual metering is impractical, where a facility is designated for elderly or handicapped persons and utility costs constitute part of the operating cost and are not apportioned to individual tenants, or where submetering or resale of service was permitted prior to 1966.

Subparagraph "b" provides that the individual metering requirements do not apply where individual metering is "impractical." The building currently has a single meter for gas and electricity. The building was constructed in a manner in which it would be difficult to provide individual metering to its tenants. The intent of the owners was to lease space in the building to one tenant. It does not appear that it

was the owner's intent to circumvent the Board's rules. Mr. Margulies has stated that the utility costs are part of the rent and are fixed according to the rent structure. Requiring the building to be individually metered would be impractical under these circumstances. The Board finds that under the described circumstances

Mr. Margulies' premise qualifies for the exception to individual metering in IOWA ADMIN. CODE 199-20.3(1)"b." Therefore, no waiver of the rules is necessary.

IT IS THEREFORE ORDERED:

The request for waiver filed by Richard B. Margulies on July 12, 1999, is denied as unnecessary for the reasons set forth above.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper
Executive Secretary, Deputy

/s/ Diane Munns

Dated at Des Moines, Iowa, this 9th day of September, 1999.